

ESTTA Tracking number: **ESTTA482984**

Filing date: **07/12/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Memorizable, LLC
Granted to Date of previous extension	07/14/2012
Address	701 Clayton St. San Francisco, CA 94117 UNITED STATES

Correspondence information	Memorizable, LLC 701 Clayton St. San Francisco, CA 94117 UNITED STATES craig.muth@gmail.com Phone:513-288-2013
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### Applicant Information

Application No	85485439	Publication date	05/15/2012
Opposition Filing Date	07/12/2012	Opposition Period Ends	07/14/2012
Applicant	Collaborative Mind, LLC Suite 160 4904 Majestic Lane Fairfax, VA 22033 UNITED STATES		

### Goods/Services Affected by Opposition


Class 045. All goods and services in the class are opposed, namely: Internet-based social networking services; On-line social networking services; Providing a social networking website for entertainment purposes
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### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3789938	Application Date	09/28/2009
Registration Date	05/18/2010	Foreign Priority Date	NONE
Word Mark	MEMORIZE		

Design Mark	
Description of Mark	The mark consists of the word "memorize" in stylized form with the second "m" resembling an elephant.
Goods/Services	Class 042. First use: First Use: 2009/09/26 First Use In Commerce: 2009/09/26 Hosting an online website featuring user generated tables and content for learning purposes

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	MEMORIZE		
Goods/Services	Opposer uses the MEMORIZE mark in connection with social networking services.		

Attachments	77836751#TMSN.jpeg ( 1 page )( bytes ) opposition.pdf ( 4 pages )(385687 bytes ) Exhibit A.pdf ( 3 pages )(96078 bytes ) Exhibit B.pdf ( 3 pages )(97827 bytes ) Exhibit C.pdf ( 1 page )(94621 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Craig Muth/
Name	Memorizable, LLC
Date	07/12/2012

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of trademark application Serial No. 85485439  
For the mark MEMORIZE  
Published in the Official Gazette on May 15, 2012

Memorizable, LLC  
“Opposer”  
v.  
Collaborative Mind, LLC  
“Applicant”

NOTICE OF OPPOSITION

Memorizable, LLC, an Ohio Limited Liability Company  
701 Clayton St.  
San Francisco, CA 94117

The above-identified opposer believes that it/he/she will be damaged by registration of the mark shown in the above-identified application, and hereby opposes the same.

The grounds for opposition are as follows:

1. Applicant filed a trademark application assigned Application Serial No. 85485439 (the “Application”), Exhibit A, in the United States Patent and Trademark Office (“PTO”) on December 1, 2011 (“Applicant’s Filing Date”) to register the mark MEMORIZE for use in connection with “Internet-based social networking services; On-line social networking services; Providing a social networking website for entertainment purposes” in International Class 45 (the “Applicant’s Services”).
2. The Application filed by Applicant was filed on the basis of intent to use.
3. On May 15, 2012 the PTO published the Application for Opposition.
4. On June 11, 2012, the Opposer filed for an Extension of Time to Oppose the Application with the Trademark Trial and Appeal Board (“TTAB”).

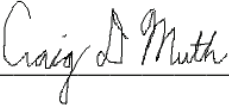
5. The TTAB granted Opposer's Extension and set the time for Opposer to Oppose to July 14, 2012.
6. The Opposer is the owner U.S. Registration 3789938 for the mark MEMORIZE (and design) (the "Opposer's Mark"), Exhibit B, filed in the PTO on September 28, 2009 ("Opposer's Filing Date") based on actual use, with a date of first use of September 26, 2009 ("Opposer's First Use Date"), in connection with "hosting an online website featuring user generated tables and content for learning purposes" (the "Opposer's Service") and the Opposer's Mark was registered on May 18, 2010.
7. The Opposer also uses the mark MEMORIZE ("Opposer's Common Law Mark") in connection with social networking services (the "Opposer's Social Networking Service"). See attached Exhibit C that shows Opposer's Common Law Mark in use as a social network where users can follow other users of Opposer's Social Networking Service.
8. The Opposer has used the Opposer's Mark in association with the Opposer's Service in commerce since at least as early as September 26, 2009 and the Opposer's Mark is currently in use in commerce with Opposer's Service.
9. The Opposer has used the Opposer's Common Law Mark in association with the Opposer's Social Networking Service in commerce since at least as early as September 26, 2009 and the Opposer's Common Law Mark Mark is currently in use in commerce with Opposer's Social Networking Service.
10. The Opposer's Filing Date and the Opposer's First Use Date for Opposer's Mark is earlier than Applicant's Filing Date.

11. Priority is not an issue in this case because the Opposer's Filing Date and the Opposer's First Use Date for Opposer's Mark precede the Applicant's Filing Date.
12. Applicant's Mark MEMORIZE is identical to the Opposer's Mark MEMORIZE and Opposer's Common Law Mark MEMORIZE.
13. The Applicant's Mark MEMORIZE is confusingly similar in sound, meaning, and appearance to the Opposer's Mark MEMORIZE (and design) and Opposer's Common Law Mark MEMORIZE.
14. The Applicant's registration and use of the MEMORIZE Mark would likely create confusion, mistake, or deception in the minds of prospective customers as to the origin or source of the Opposer's Service associated with Opposer's Mark and of the Opposer's Social Networking Service associated with the Opposer's Common Law Mark.
15. The Applicant's Services are closely related to and/or are in the natural zone of expansion of the Opposer's Service as evidenced by Opposer's use of Opposer's Mark as Opposer's Social Networking Service.
16. The Opposer's Service and the Applicant's Services travel in the same channels of trade and are viewed by the same customers including those who use social networking services. Applicant's Services are therefore substantially similar to the Opposer's Service with which the Opposer's Mark is used.
17. Users familiar with the Opposer's Service and Opposer's Social Networking Service are likely to mistakenly believe that the Applicant's Services are sponsored by, authorized, endorsed, affiliated with or otherwise approved by the Opposer because the MEMORIZE Mark sought to be registered and used by the Applicant

is identical to or confusingly similar to the Opposer's Mark and Opposer's Common Law Mark.

18. For the foregoing reasons, the registration sought by Applicant is contrary to the provisions of Section 2 of the Lanham Act, and Opposer believes that it would be damaged thereby.
19. WHEREFORE, Opposer respectfully requests that registration of the mark shown in Application Serial No. 85485439 be refused and that this Opposition be sustained in favor of Opposer.

DATED: July 11, 2012



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Craig Muth, President

Memorizable, LLC

Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2012-07-09 21:46:57 ET

Serial Number: 85485439 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: (NOT AVAILABLE)

Mark

# Memorize

(words only): [MEMORIZE](#)

Standard Character claim: [Yes](#)

**Current Status:** [A request for an extension of time to file an opposition has been filed with the Trademark Trial and Appeal Board. For further information, see TTABVUE on the Trademark Trial and Appeal Board web page.](#)

**Date of Status:** [2012-06-11](#)

**Filing Date:** [2011-12-01](#)

**Filed as TEAS Plus Application:** [Yes](#)

**Currently TEAS Plus Application:** [Yes](#)

**Transformed into a National Application:** [No](#)

**Registration Date:** (DATE NOT AVAILABLE)

**Register:** [Principal](#)

**Law Office Assigned:** [LAW OFFICE 112](#)

**Attorney Assigned:**  
[MARTIN LIEF ANDREW](#)

**Current Location:** [650 -Publication And Issue Section](#)

**Date In Location:** [2012-04-06](#)

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**LAST APPLICANT(S)/OWNER(S) OF RECORD**

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**1. Collaborative Mind, LLC****Address:**

Collaborative Mind, LLC  
Suite 160 4904 Majestic Lane  
Fairfax, VA 22033  
United States

**Legal Entity Type:** Limited Liability Company

**State or Country Where Organized:** Virginia

**Phone Number:** 703-582-4403

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**GOODS AND/OR SERVICES**

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**International Class:** 045

**Class Status:** Active

Internet-based social networking services; On-line social networking services; Providing a social networking website for entertainment purposes

**Basis:** 1(b)

**First Use Date:** (DATE NOT AVAILABLE)

**First Use in Commerce Date:** (DATE NOT AVAILABLE)

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**ADDITIONAL INFORMATION**

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(NOT AVAILABLE)

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**MADRID PROTOCOL INFORMATION**

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(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2012-06-11 - Extension Of Time To Oppose Received

2012-05-15 - Official Gazette Publication Confirmation E-Mailed

2012-05-15 - Published for opposition

2012-04-25 - Notification Of Notice Of Publication E-Mailed

2012-03-19 - Approved For Pub - Principal Register

2012-03-14 - Assigned To Examiner



2011-12-07 - New Application Office Supplied Data Entered In Tram

2011-12-05 - New Application Entered In Tram

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**ATTORNEY/CORRESPONDENT INFORMATION**

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**Attorney of Record**

Kevin M. Goldberg

**Correspondent**

KEVIN M. GOLDBERG

FLETCHER, HEALD & HILDRETH, P.L.C.

1300 17TH ST N FL 11

ARLINGTON, VA 22209-3811

Phone Number: 703-812-0400

Fax Number: 703-812-0486

**Domestic Representative**

Kevin M. Goldberg

Phone Number: 703-812-0400

Fax Number: 703-812-0486

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Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2012-07-09 21:49:35 ET

Serial Number: 77836751 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 3789938

Mark



(words only): [MEMORIZE](#)

Standard Character claim: [No](#)

Current Status: [Registered](#). The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: [2010-05-18](#)

Filing Date: [2009-09-28](#)

Transformed into a National Application: [No](#)

Registration Date: [2010-05-18](#)

Register: [Principal](#)

Law Office Assigned: [LAW OFFICE 111](#)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov)

Current Location: [650 -Publication And Issue Section](#)

Date In Location: [2010-05-18](#)

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#### LAST APPLICANT(S)/OWNER(S) OF RECORD

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1. [Memorizable, LLC](#)

Address:

[Memorizable, LLC](#)  
[851 Pearl Alley](#)  
[Columbus, OH 43215](#)

[United States](#)

**Legal Entity Type:** [Limited Liability Company](#)

**State or Country Where Organized:** [Ohio](#)

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### GOODS AND/OR SERVICES

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**International Class:** [042](#)

**Class Status:** [Active](#)

[Hosting an online website featuring user generated tables and content for learning purposes](#)

**Basis:** [1\(a\)](#)

**First Use Date:** [2009-09-26](#)

**First Use in Commerce Date:** [2009-09-26](#)

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### ADDITIONAL INFORMATION

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**Color(s) Claimed:** [Color is not claimed as a feature of the mark.](#)

**Description of Mark:** [The mark consists of the word "memorize" in stylized form with the second "m" resembling an elephant.](#)

**Design Search Code(s):**

[03.03.01](#) - Elephants; Mammoths; Mastodons

[27.01.02](#) - Animals composed of letters or numerals; Letters forming animals; Numbers forming animals; Punctuation forming animals

[29.01.07](#) - Inconspicuous designs functioning as punctuation or parts of letters; Small, inconspicuous design elements functioning as punctuation or parts of letters

**Prior Registration Number(s):**

[3639384](#)

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### MADRID PROTOCOL INFORMATION

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(NOT AVAILABLE)

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### PROSECUTION HISTORY

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**NOTE:** To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

[2010-05-18 - Registered - Principal Register](#)

[2010-03-02 - Official Gazette Publication Confirmation E-Mailed](#)

[2010-03-02 - Published for opposition](#)

[2010-01-22 - Law Office Publication Review Completed](#)

2010-01-22 - Assigned To LIE

2009-12-30 - Approved for Pub - Principal Register (Initial exam)

2009-12-30 - Examiner's Amendment Entered

2009-12-30 - Notification Of Examiners Amendment E-Mailed

2009-12-30 - EXAMINERS AMENDMENT E-MAILED

2009-12-30 - Examiners Amendment -Written

2009-12-27 - Notification Of Non-Final Action E-Mailed

2009-12-27 - Non-final action e-mailed

2009-12-27 - Non-Final Action Written

2009-12-23 - Assigned To Examiner

2009-10-09 - Notice Of Design Search Code And Pseudo Mark Mailed

2009-10-08 - New Application Office Supplied Data Entered In Tram

2009-10-01 - New Application Entered In Tram

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#### ATTORNEY/CORRESPONDENT INFORMATION

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**Attorney of Record**

Alvin Borromeo

**Correspondent**

ALVIN BORRAMEO

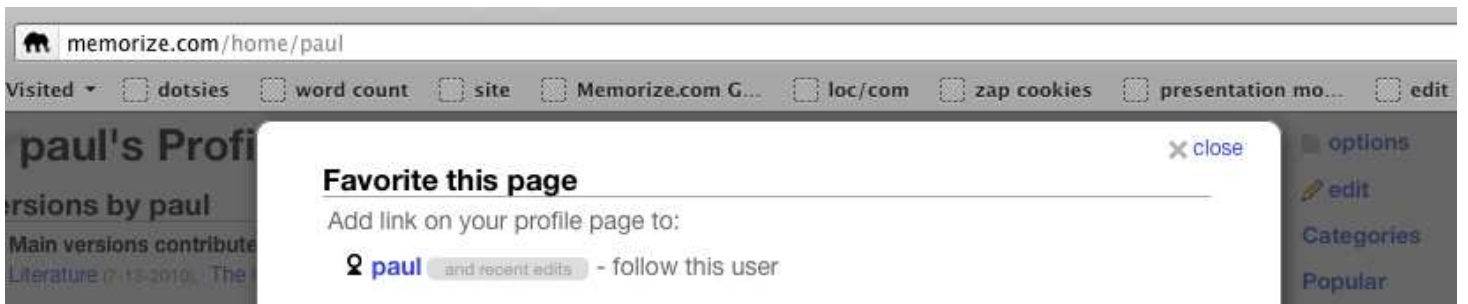
5598 STOVER CT

DUBLIN, OH 43017-3064

Phone Number: 614-602-4665

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following.png

